

Message Text

UNCLASSIFIED

PAGE 01 CARACA 14250 01 OF 02 072057Z

63

ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 EB-07 FRB-01 INR-07
NSAE-00 USIA-15 TRSE-00 XMB-04 OPIC-06 SP-02 CIEP-02
LAB-04 SIL-01 OMB-01 STR-04 PA-02 PRS-01 L-03 H-02
FEA-01 /079 W

----- 032542

R 071932Z DEC 76

FM AMEMBASSY CARACAS

TO AMEMBASSY LIMA

INFO USDOC WASHDC

SECSTATE WASHDC 5911

UNCLAS SECTION 1 OF 2 CARACAS 14250

E.O. 11652: N/A

TAGS: EINV, BPUB, VE

SUBJ: ANDEAN COMMON MARKET-IMPLICATIONS FOR US BUSINESS IN
VENEZUELA

REF: STATE 245279

1. INFORMATION CONTAINED IN THIS TELEGRAM KEYED TO ORDER
QUESTIONS POSED IN REFTEL. DEPARTMENT AND EMBASSY LIMA SHOULD
NOTE, HOWEVER, THAT SIEX IN PROCESS OF REVISING AND CODIFYING
REGULATIONS RELATING TO FOREIGN INVESTMENT IN VENEZUELA.
WORK EXPECTED TO BE COMPLETED BY END OF JANUARY, AND SOME OF
RESPONSES BELOW MAY NO LONGER BE VALID AS A RESULT. WE KNOW,
FOR EXAMPLE, THAT GOV SERIOUSLY CONSIDERING EXTENDING DEADLINE
FOR DISINVESTMENT IN CERTAIN INDUSTRIES TO DECEMBER OF 1977,
THAT LIMIT OF FOREIGN DIVIDEND REMITTANCE WILL PROBABLY BE
RAISED TO 20PERCENT AND THAT REINVESTMENT LIMIT MAY BE RAISED
FROM 5PERCENT OF REGISTERED FOREIGN INVESTMENT TO 7PERCENT.
HOWEVER, FINAL DECISIONS HAVE NOT YET BEEN MADE. WE SHALL KEPP
YOU ADVISED.

2. THE GOV ORGANIZATIONS RESPONSIBLE FOR REVIEWING AND APPROVING
FOREIGN INVESTMENT ARE:

A. PETROLEUM SECTOR INVESTMENTS-
OFFICE OF CONTROL OF FOREIGN FIRMS AND INVESTMENTS
MINISTRY OF MINES

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 CARACA 14250 01 OF 02 072057Z

TORRE NORTE

CENTRO SIMON BOLIVAR
CARACAS

B. OTHER FOREIGN INVESTMENT
SUPERINTENDENCIA DE INVERSIONES EXTRANJERAS (SIEX)
TORRE EUROPA
AVENIDA FRANCISCO DE MIRANDA
CHACAO
CARACAS

3. THE BASIC GUIDELINES GOVERNING FOREIGN INVESTMENT IN VENEZUELA
ARE SET FORTH IN DECREES NO. 62 AND 63, BOTH DATED APRIL 28, 1974.

IN SUMMARY, THEIR MAJOR PROVISIONS:

A. RESERVE CERTAIN SECTORS OF THE ECONOMY FOR NATIONAL COMPANIES
(SEE PARA 7 BELOW).

B. REQUIRE THAT FOREIGN FIRMS ENGAGED IN THESE KINDS OF ACTIVITIES
BE TRANSFORMED INTO NATIONAL COMPANIES BY MAY 1, 1977.

C. SET ASIDE BANKING AND INSURANCE AS FUNCTIONS SUBJECT TO
SPECIAL TREATMENT UNDER VENEZUELAN LAW. DECREE NO. 870
DATED APRIL 22, 1975, GOVERNS THE INSURANCE INDUSTRY, WHILE
DECREES 869 OF APRIL 22, 1975, AND 798 OF MARCH 11, 1975
CONTAIN THE BASIC GUIDELINES FOR THE BANKING INDUSTRY. WITH
RESPECT TO BANKS AND FINANCE INSTITUTIONS, FOREIGN CAPITAL IS
LIMITED TO 20PERCENT. SIEX DISCOURAGES NEW FOREIGN INVESTMENT
EVEN UP TO THIS LIMIT. WITH RESPECT TO INSURANCE, THE SAME IS
TRUE; HOWEVER MOST PUBLIC SECTOR AGENCIES ARE NOT PERMITTED TO
WRITE INSURANCE CONTRACTS WITH COMPANIES WHOSE CAPITAL IS LESS
THAN 90PERCENT VENEZUELAN.

D. STATE THAT FOREIGN INVESTMENT AND CONTRACTS REGARDING
TRADEMARKS, LICENSES AND ROYALTIES WILL BE GOVERNED BY THE
PROVISIONS OF DECISIONS 24, 37, 37-A AND 70 OF THE PACT
COMMISSION AND ARE FURTHER AMPLIFIED BY DECREE 746 OF 11 FEBRUARY
1975 WHICH GOES BEYOND DECISION 24 IN DEFENDING THE INTERESTS
OF VENEZUELAN LICENSEES.

E. AUTHORIZE APPROVAL OF DIRECT FOREIGN INVESTMENT WHEN:

1. THE PRODUCT MANUFACTURED WILL HAVE AT LEAST 50PERCENT LOCAL
CONTENT, OR

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 CARACA 14250 01 OF 02 072057Z

2. THE INVESTMENT IS IN AN EXPORT INDUSTRY AND THE PRODUCT
HAS AT LEAST 30PERCENT LOCAL CONTENT, OR

3. THE INVESTMENT GENERATES SIGNIFICANT EMPLOYMENT, WILL BE
LOCATED IN ECONOMICALLY UNDERDEVELOPED AREAS, OR INVOLVES
TECHNOLOGY ADVANTAGEOUS TO THE COUNTRY, OR

4. THE INVESTORS UNDERTAKE TO CREATE A MIXED OR NATIONAL COMPANY
SOONER THAN REQUIRED BY DECISION 24.

F. REQUIRE APPROVAL BY SIEX OF ALL FOREIGN CREDIT AGREEMENTS ENTERED INTO BY COMPANIES OPERATING IN VENEZUELA.

G. LIMIT REMITTANCE OF DIVIDENDS TO FOREIGN INVESTORS TO 14 PERCENT OF ORIGINAL INVESTMENT ANNUALLY, EXCEPT WITH THE APPROVAL OF SIEX.

4. SIEX ADVISES GOV IS RECEPTIVE TO PROPOSALS FOR NEW FOREIGN INVESTMENT EXCEPT IN THOSE AREAS RESERVED FOR NATIONAL FIRMS. THE GOV IS ESPECIALLY INTERESTED IN PROPOSALS FOR NEW INVESTMENT IN AGRICULTURE AND FOOD PROCESSING.

5. THE OSTENSIBLE CRITERIA FOR APPROVAL OF NEW FOREIGN INVESTMENT ARE SUMMARIZED IN PARAGRAPH 3 ABOVE. HOWEVER, WE DO NOT DISCERN ANY CONSISTENT PATTERN WITH RESPECT TO SIEX APPROVAL OR DISAPPROVAL OF NEW FOREIGN INVESTMENT. PATTERNS WILL NO DOUBT DEVELOP AS THE AGENCY GAINS EXPERIENCE.

UNCLASSIFIED

NNN

UNCLASSIFIED

PAGE 01 CARACA 14250 02 OF 02 072115Z

63

ACTION ARA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 EB-07 FRB-01 INR-07
NSAE-00 USIA-15 TRSE-00 XMB-04 OPIC-06 SP-02 CIEP-02
LAB-04 SIL-01 OMB-01 STR-04 PA-02 PRS-01 L-03 H-02
FEA-01 /079 W

----- 032818

R 071932Z DEC 76

FM AMEMBASSY CARACAS

TO AMEMBASSY LIMA

INFO USDOC WASHDC

SECSTATE WASHDC 5912

UNCLAS SECTION 2 OF 2 CARACAS 14250

6. AS FAR AS WE CAN DETERMINE THERE ARE NO SERIOUS DIVERGENCIES BETWEEN GOV POLICIES AND PRACTICES AND DECISION 24. SIEX SUPERINTENDENT SOTO ALVAREZ HAS EMPHASIZED ON SEVERAL RECENT OCCASIONS THE GOV'S DETERMINATION TO ADHERE STRICTLY TO DECISION 24 "EVEN IF OTHER PACT MEMBERS ARE NOT DOING SO."

7. THE GOV DISCOURAGES OR PROHIBITS NEW FOREIGN INVESTMENT IN THOSE SECTORS LISTED IN ARTICLES 41, 42, AND 43 OF DECISION 24. WITH RESPECT TO INDUSTRIES LISTED IN ARTICLE 41, THE GOV

HAS APPARENTLY DECIDED THAT FOREIGN PARTICIPATION SHOULD BE ELIMINATED ENTIRELY AS QUICKLY AS PRACTICABLE.

8. WE ARE NOT AWARE THAT REMITTANCES OF EARNINGS ARE DELAYED AS LONG AS THEY ARE CONSISTENT WITH GOVERNMENT DECREES 62 AND 63. THE GOVERNMENT IS TRYING TO IMPROVE ITS SYSTEM OF MONITORING REMITTANCES OF EARNINGS TO FOREIGN INVESTORS IN PART THROUGH REVISIONS IN THE TAX LAWS.

9. NEW CONTRACTS COVERING THE TRANSFER OF TECHNOLOGY AND USE OF TRADEMARKS AND PATENTS MAY NOT BE VALID FOR A PERIOD LONGER THAN FIVE (5) YEARS. SUCH CONTRACTS MUST BE CONSISTENT WITH ARTICLES 20 AND 25 OF DECISION 24, AND MUST BE APPROVED BY SIEX WITHIN THIRTY DAYS OF EXECUTION. CONTRACTS ENTERED INTO PRIOR TO JANUARY 1, 1974, SHOULD HAVE BEEN REGISTERED WITH SIEX FOR REVIEW BY NOVEMBER 30, 1974. CONTRACTS NOT REGISTERED BY THIS DATE ARE CONSIDERED UNENFORCEABLE IN VENEZUELAN COURTS.
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 CARACA 14250 02 OF 02 072115Z

PROFESSIONAL (ENGINEERING) SERVICES AND CONSULTING, ADVISE, DESIGN AND SUPERVISION OF PROJECTS ARE AREAS RESERVED TO NATIONAL FIRMS. SIEX HAS INDICATED INFORMALLY IT WILL GIVE FAVORABLE CONSIDERATION TO JOINT VENTURES SET UP TO PROVIDE THESE SERVICES TO PROJECTS IMPORTANT TO VENEZUELA'S DEVELOPMENT.

10. SIEX IS EMPOWERED TO ESTABLISH THE CONDITIONS OF ACCESS BY FOREIGN INVESTORS TO LOCAL CREDIT SOURCES. REGULATIONS ISSUED ON SEPTEMBER 4, 1973, AS AMENDED OCTOBER 14, 1976, REQUIRE THAT FOREIGN COMPANIES (AS DEFINED IN ARTICLE 1 OF DECISION 24) BORROWING IN VENEZUELA MAINTAIN IN THE COUNTRY AT LEAST 100PERCENT OF THEIR DECEMBER 31, 1972 BALANCE INCLUDING
(A) PAID IN CAPITAL AND CAPITAL RESERVES,
(B) SURPLUS AS OF THE CLOSE OF THE LAST FISCAL YEAR AND
(C) CREDITS FROM ABROAD, INCLUDING THOSE FROM PARENT COMPANIES.
AS LONG AS FOREIGN COMPANIES ARE INDEBTED TO LOCAL BANKS THEY MAY NOT INVEST ABROAD, DIRECTLY OR INDIRECTLY, UNLESS SUCH INVESTMENTS TEND TO INCREASE VENEZUELAN EXPORTS. THE CENTRAL BANK AND SIEX HAVE THE AUHTORITY TO GRANT EXCEPTIONS TO THE GENERAL RULES ABOVE. GOVERNMENT AGENCIES MAY NOT MAKE CREDITS AVAILABLE TO FOREIGN COMPANIES.
THE SUPERINTENDENT OF FOREIGN INVESTMENT MAY FIX THE CONDITIONS FOR ACCESS TO LOCAL CREDIT SOURCES BY NEW FOREIGN FIRMS UNTIL REGULATIONS COVERING THIS AREA ARE PUBLISHED. IN FACT, SIEX SEEMS VERY RELUCTANT TO APPROVE SIGNIFICANT LOCAL BORROWINGS BY NEW FOREIGN FIRMS.
VAKY

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FOREIGN INVESTMENTS, BUSINESS FIRMS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 DEC 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976CARACA14250
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760452-0912
From: CARACAS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761263/aaaaccmo.tel
Line Count: 219
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 STATE 245279
Review Action: RELEASED, APPROVED
Review Authority: wolfsd
Review Comment: n/a
Review Content Flags:
Review Date: 01 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 JUN 2004 by hattaycs>; APPROVED <06 AUG 2004 by wolfsd>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ANDEAN COMMON MARKET-IMPLICATIONS FOR US BUSINESS IN VENEZUELA
TAGS: EINV, BPUB, VE, US, ANDEAN COMMON MARKET
To: LIMA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006